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The Honorable Rachel P. Kovner
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Via CM/ECF

Re: *Mirkin, et al. v. XOOM Energy, LLC, et al.*; No. 1:18-cv-02949-RPK-JAM

Dear Judge Kovner:

XOOM respectfully requests a new setting for the pretrial conference currently scheduled for March 10, 2025, at 2pm, and both parties seek clarification regarding its scope.

XOOM appreciates Your Honor's quick attention to this case and prompt scheduling of the pretrial conference. But unfortunately, I have two conflicts with the current setting. One is an oral argument before California's 4th District Court of Appeal in appeal number D082830. The parties filed a joint stipulation to continue that setting but it has not yet been granted. The second conflict involves pre-existing and pre-paid travel with my family from March 8 until March 15 for my sons' spring break (and I am XOOM's lead counsel). Due to these conflicts, XOOM respectfully requests that the pretrial conference be rescheduled. XOOM conferred with Plaintiff's counsel and the soonest dates both parties are available are March 7 and March 26. This is XOOM's first request to reset the pretrial conference and Plaintiff does not oppose it.

In addition, the parties respectfully seek clarification regarding the scope of issues the Court plans to address at the upcoming conference. As the Court knows, there are many pending matters in this case. The parties filed their Joint Pretrial Order—including exhibit and witness lists and objections thereto, proposed jury instructions, and verdict forms—in May 2024 (ECF No. 210). Also fully briefed are Plaintiff's motions *in limine* (ECF No. 221), XOOM's motions *in limine* (ECF No. 223), and XOOM's motion for reconsideration of continued class treatment (ECF No. 278). There have also been significant developments from the Court since the Joint Pretrial Order and *in limine* motions were filed, including orders on XOOM's decertification motion (ECF No. 246), XOOM's motion to exclude Plaintiffs' experts (ECF No. 267), continuing class treatment (ECF No. 276), and Plaintiff's motion to exclude XOOM's expert (ECF No. 280). These pending matters (plus the recent supplemental submissions on XOOM's exhibits) raise a multitude of issues, any one of which the Court could reasonably focus on at the conference. The parties therefore seek clarification to insure they are adequately prepared on the correct topics.

We are grateful for the Court's consideration of these requests.

Respectfully Submitted,
/s/ Michael D. Matthews, Jr.
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